

IN THE MICHIGAN COURT OF APPEALS

ORDER

Re: **People of MI v Roger L Lyle**
Docket No. **291892**
L.C. No. **76-000293-FY**

Henry William Saad, Chief Judge, acting under MCR 7.203(F)(1) and 7.216(A)(10),
orders:

The delayed application for leave to appeal is DISMISSED for lack of jurisdiction because appellant's attempt to appeal the denial of a successive motion for relief from judgment is barred by MCR 6.502(G)(1). The underlying motion, although styled as a motion for reinstatement of prior motions for relief from judgment, actually constitutes a motion for relief from judgment as it sought review of appellant's convictions after those convictions had been affirmed on direct appeal. See MCR 6.501. Further, the exceptions provided by MCR 6.502(G)(2) to the general bar against the filing of a successive motion for relief from judgment are inapplicable. Particularly, *Massaro v United States*, 538 US 500; 123 S Ct 1690; 155 L Ed 2d 714 (2003), cannot constitute a retroactive change in law occurring after a prior motion for relief from judgment in this case where that opinion was issued *before* the prior motion for relief from judgment that appellant filed in this case in 2005.



A true copy entered and certified by Sandra Schultz Mengel, Chief Clerk, on

OCT 05 2009

Date

Sandra Schultz Mengel
Chief Clerk